

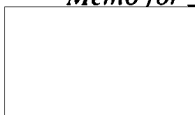
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16 July 1985

Memo for Chairman, DCI Security Committee



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Sorry for the delay in sending this.


Maynard C. Anderson
Director
Security Plans and Programs

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I APPRECIATE THE OPPORTUNITY TO PROVIDE MY COMMENTS ON THE NATIONAL SECURITY DECISION DIRECTIVE (NSDD) 145: NATIONAL POLICY ON TELECOMMUNICATIONS AND AUTOMATED INFORMATION SYSTEMS SECURITY. I COMMEND YOU FOR YOUR EFFORTS IN REVIEWING THIS DIRECTIVE. IT IS IMPORTANT THAT THE CONGRESS AND THE AMERICAN PEOPLE FULLY UNDERSTAND THIS DIRECTIVE, ITS PURPOSE AND THE EFFECT ITS IMPLEMENTATION WOULD HAVE ON OUR GOVERNMENT AND ITS CITIZENS.

ACCORDING TO THE ADMINISTRATION, THE PURPOSE OF THE DIRECTIVE IS TO COUNTER THE GROWING THREAT OF FOREIGN EXPLOITATION OF COMPUTER-BASED INFORMATION SYSTEMS WITHIN BOTH THE GOVERNMENT AND THE PRIVATE SECTOR. ADMITTEDLY, THIS IS A LAUDABLE GOAL. HOWEVER, I BELIEVE THAT NSDD 145 IS ONE OF THE MOST ILL-ADVISED AND POTENTIALLY TROUBLESOME DIRECTIVES EVER ISSUED BY A PRESIDENT. IT SEEKS TO VEST IN THE DEPARTMENT OF DEFENSE (DOD) THE AUTHORITY TO ESTABLISH REGULATIONS AND STANDARDS WHICH WOULD GOVERN THE ACCESS TO AND THE PROCESSING OF ALL COMPUTERIZED INFORMATION WHICH IT DEEMS TO BE CRITICAL TO THE NATIONAL SECURITY OF THE UNITED STATES. THIS WOULD INCLUDE NOT ONLY CLASSIFIED INFORMATION, BUT ANY OTHER INFORMATION WITHIN THE CIVILIAN AGENCIES WHICH THE DEPARTMENT CONSIDERS "SENSITIVE."

THE DIRECTIVE WOULD ALSO GIVE DOD THE POWER TO INFLUENCE THE COLLECTION, PROCESSING AND DISSEMINATION OF INFORMATION IN THE PRIVATE SECTOR WHENEVER IT BELIEVES IT WOULD BE IN THE INTEREST OF NATIONAL SECURITY. SINCE IT IS LEFT UP TO THE DEPARTMENT TO DEFINE WHAT IS IN THE INTEREST OF NATIONAL SECURITY, VIRTUALLY ANY INFORMATION SYSTEM LOCATED IN THE CIVILIAN AGENCIES OR THE PRIVATE SECTOR WOULD FALL UNDER ITS DOMAIN.

IN MY VIEW, THIS DIRECTIVE IS SERIOUSLY DEFECTIVE ON SEVERAL GROUNDS. FIRST, IT WAS DRAFTED IN A MANNER WHICH USURPS CONGRESS'S ROLE IN SETTING NATIONAL POLICY. UNDER OUR SYSTEM OF GOVERNMENT, THE CONGRESS HAS THE SOLE RESPONSIBILITY FOR SETTING NATIONAL POLICY THROUGH THE ENACTMENT OF LEGISLATION AND THE PRESIDENT HAS THE DUTY TO FAITHFULLY EXECUTE PUBLIC LAW. AS SUCH, WHILE THE PRESIDENT HAS PROCLAIMED THAT NSDD 145 SETS NATIONAL POLICY FOR TELECOMMUNICATIONS AND COMPUTER SYSTEMS SECURITY, HE HAS NO LEGAL AUTHORITY TO DO SO. THIS IS NOT AN ESOTERIC ISSUE. THE CORRIDORS OF THE PENTAGON AND THE OFFICES OF THE EAST WING OF THE WHITE HOUSE ARE NOT PLACES IN WHICH NATIONAL POLICY SHOULD BE ESTABLISHED. THE IMPORTANCE OF THIS ISSUE DEMANDS PUBLIC HEARINGS AND A FULL DEBATE IN THE CONGRESS BEFORE THE NATIONAL POLICY IS SET.

SECOND, THE DIRECTIVE IS IN CONFLICT WITH EXISTING STATUTES WHICH ASSIGN TO THE OFFICE OF MANAGEMENT AND BUDGET, THE DEPARTMENT OF COMMERCE, AND THE GENERAL SERVICES ADMINISTRATION THE SOLE RESPONSIBILITY FOR ESTABLISHING GOVERNMENT-WIDE STANDARDS, GUIDELINES AND POLICIES FOR COMPUTER AND TELECOMMUNICATIONS SECURITY.

IN ISSUING NSDD 145, THE PRESIDENT IGNORED THESE STATUTORY AUTHORITIES AND UNILATERALLY TRANSFERRED THESE RESPONSIBILITIES TO DOD. ONCE AGAIN, THE PRESIDENT DOES NOT HAVE THE AUTHORITY UNDER OUR CONSTITUTIONAL FORM OF GOVERNMENT TO UNILATERALLY REVISE EXISTING STATUTES. IF THE PRESIDENT BELIEVES THAT DOD COULD DO A BETTER JOB, THEN HE SHOULD HAVE PROPOSED LEGISLATION TO THE CONGRESS TO LEGALLY AFFECT THIS CHANGE.

FINALLY, I SERIOUSLY QUESTION THE WISDOM OF THE PRESIDENT'S DECISION TO GIVE DOD THE POWER TO CLASSIFY, HENCE CONTROL, INFORMATION LOCATED IN THE CIVILIAN AGENCIES AND EVEN THE PRIVATE SECTOR WHICH, IN DOD'S OPINION, MAY AFFECT NATIONAL SECURITY.

ONE OF THE BENEFITS OF A FULL AND OPEN SOCIETY IS THE RICH EXCHANGE OF IDEAS AND KNOWLEDGE UNFETTERED BY GOVERNMENTAL INTERVENTION AND RED TAPE. THE SUCCESSES OF OUR SCIENTIFIC, TECHNICAL, AND MEDICAL COMMUNITIES HAVE BEEN BASED UPON THE FREE EXCHANGE OF DATA AND INFORMATION. SINCE IT IS A NATURAL TENDENCY OF DOD TO CLASSIFY EVERYTHING, IT WOULD BE IMPOSSIBLE FOR THE DEPARTMENT TO STRIKE AN OBJECTIVE BALANCE BETWEEN THE NEED TO SAFEGUARD INFORMATION AND THE NEED TO MAINTAIN THE FREE EXCHANGE OF INFORMATION. THERE ARE OTHER PRACTICAL PROBLEMS AS WELL. DOD DOES NOT HAVE THE RESOURCES TO CLASSIFY AND CONTROL ALL OF THE INFORMATION THAT WOULD BE ENCOMPASSED BY THIS DIRECTIVE.

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FURTHERMORE, THE COST OF APPLYING DOD-TYPE SECURITY MEASURES TO CIVILIAN AGENCY AND PRIVATE SECTOR INFORMATION SYSTEMS WOULD BE OVERWHELMING. WHERE IS ALL THIS MONEY GOING TO COME FROM? IN MY OPINION, DOD HAS ITS HANDS FULL TRYING TO EVEN MODESTLY PROTECT ITS OWN CLASSIFIED INFORMATION. IT WOULD BE FOOLHARDY TO EXPAND ITS JURISDICTION TO PROTECT THE UNCLASSIFIED INFORMATION CONTAINED IN THE CIVILIAN AGENCIES AND THE PRIVATE SECTOR.

IN SUMMARY, NSDD 145 IS SERIOUSLY FLAWED IN BOTH LEGAL AND PRACTICAL TERMS AND SHOULD BE WITHDRAWN. THIS DOES NOT MEAN THAT THERE ISN'T AN URGENT NEED FOR GREATER ATTENTION TO BE PLACED ON THE PROTECTION OF UNCLASSIFIED BUT SENSITIVE INFORMATION. THERE IS NO QUESTION THAT THE CIVILIAN AGENCIES HAVE FALLEN BEHIND IN IMPLEMENTING COMPUTER SECURITY MEASURES. HOWEVER, THIS HAS BEEN CAUSED PRIMARILY BY A LACK OF ATTENTION TO THIS AREA AND INADEQUATE FUNDING.

CURRENT TECHNOLOGY OFFERS THE GOVERNMENT AND THE PRIVATE SECTOR A MULTITUDE OF MEANS TO PROTECT ITS SENSITIVE DATA -- FOR A PRICE. AGENCY HEADS MUST BE MADE AWARE THAT MORE RESOURCES MUST BE ALLOCATED FOR COMPUTER AND TELECOMMUNICATIONS SECURITY, INCLUDING PROPER TRAINING FOR AGENCY PERSONNEL IN THIS AREA. THE NATIONAL BUREAU OF STANDARDS IS IN THE BEST POSITION TO ASSIST THE AGENCIES IN THIS EFFORT. I WOULD URGE THE SUBCOMMITTEE TO CONSIDER THIS ALTERNATIVE.

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